

# **In The Supreme Court of The United States**

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**OCTOBER TERM, 1918**

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**William Kinzell,**

**Petitioner,**

**against**

**Chicago, Milwaukee & St. Paul  
Railway Company, a corporation,  
Respondent.**

**No. 485**

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**On Writ of Certiorari to the Supreme Court of the  
State of Idaho.**

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**Motion by William Kinzell, Petitioner, to Place on  
the Summary Docket.**

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Comes now the petitioner, William Kinzell, and respectfully moves the court to place the above entitled cause on the summary docket.

## **STATEMENT**

This action was brought in a state court of Idaho by petitioner on account of injuries sustained by him

while in the employ of respondent railway company. Petitioner asserted the right to recover under the Federal Employers' Liability Act.

The injury was sustained by petitioner February 16, 1915. His suit was commenced in May, 1915, and on November 4, 1916, he recovered judgment for \$35,000. The railway company appealed to the Supreme Court of Idaho, which court reversed the judgment of the trial court upon the sole ground that at the time of his injury the petitioner was not engaged in interstate commerce.

A petition for a writ of certiorari was presented to this court based upon three grounds:

First: That the Supreme Court of the State of Idaho had misinterpreted the Federal Employers' Liability Act;

Second: That there is a substantial conflict in decisions on a vital and controlling matter of law involved in this cause between the Supreme Court of Idaho and this court in respect to the construction and application of said Federal Employers' Liability Act;

Third: Because there is a like conflict in decisions of the Supreme Court of Idaho and decisions of the Circuit Courts of Appeals for the Fourth and Sixth Circuits.

The writ of certiorari was granted by this court October 21, 1918.

There are several reasons why this case should be advanced and placed upon the summary docket:

First: The decision of the Supreme Court of Idaho in this case has introduced a conflict of decisions with respect to the Federal Employers' Liability Act which will continue until this court shall have passed upon the question involved, and for that reason the case clearly involves and affects a matter of general public interest;

Second: The case involves the construction of a statute of the United States which has been frequent-

ly before this court, with the terms and interpretation of which this court is familiar and which should not require extended argument;

Third; The Federal Employers' Liability Act is a remedial statute, and it is a matter of general and public interest, that its remedies be carried out with reasonable dispatch. In this case the plaintiff was injured in February, 1915, and both from the testimony in the case and from the amount of the judgment it is evident that his injuries were serious and disabling;

Fourth: Uniformity of interpretation of this act is of the highest importance. The fact that the writ has been granted affords reasonable ground to believe that in the view of this court there is a conflict of decisions, presented by the interpretation of the Supreme Court of Idaho in this case, which should not be permitted to continue.

Notice of this motion has been served on opposing counsel.

Respectfully submitted.

JOHN P. GRAY  
Counsel for Petitioner  
William Kinzell.  
Coeur d'Alene, Idaho.

TO THE ABOVE NAMED RESPONDENT and TO  
ROBERT H. ELDER and GEO. W. KORTE, At-  
torneys for respondent:

Please take notice that the foregoing motion will be presented to the Supreme Court of the United States on March 3rd, 1919.

JOHN P. GRAY,  
Attorney for Petitioner.

Service of the foregoing motion acknowledged this  
..... day of ....., 1919.

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Attorney for Respondent.